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Amendment After Final
Attorney Docket No. S63.2B-11395-US01

Remarks

This Amendment is in response to the Office Action dated April 3, 2006. Claims 1-35 are pending in this application. The Office Action rejected claims 1, 10, 13, 14, 17 and 19-22 under 35 USC § 102 over Velarde (US 4304116) and rejected claims 11, 12, 15, 16 and 28 under 35 USC § 103 over Velarde. The Office Action also indicated the presence of allowable subject matter in claims 2-9, 18, 23-27, 29 and 30-35, but objected to claims 2-5, 7-9, 18, 23 and 29 as being dependent upon a rejected base claim.

By this Amendment, claim 14 is amended for clarification purposes only to remove repetitive language. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Allowable Subject Matter

Applicant acknowledges the Office Action's indication of allowable subject matter in claims 2-9, 18, 23-27, 29 and 30-35. However, for the reasons set forth below, Applicant respectfully asserts that all of the claims are directed to allowable subject matter and that the application is in condition for allowance.

Claim Rejections/Objections

The Office Action rejected claims 1, 10, 13, 14, 17 and 19-22 under 35 USC § 102 over Velarde and rejected claims 11, 12, 15, 16 and 28 under 35 USC § 103 over Velarde. These rejections are traversed, and are discussed below with respect to the independent claims.

Independent claim 1

Claim 1 requires "disposing a medical device within the aperture," and "reducing the size of the aperture to apply an inward force to said medical device."

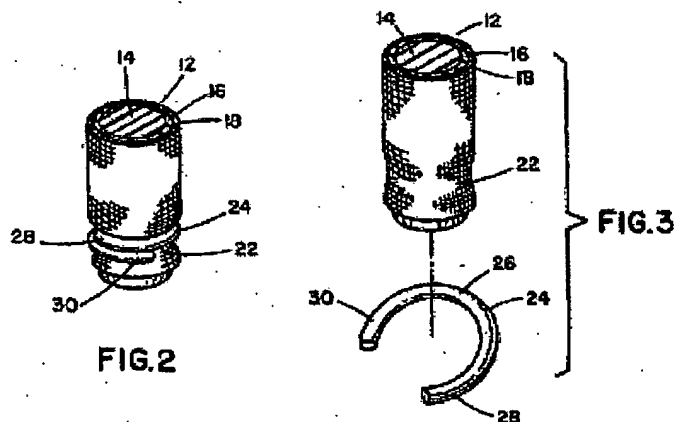
The Office Action recognizes that Velarde's crimping operation is used on aerosol containers, and asserts that, because aerosol containers are used in the medical field, Velarde thus discloses the claimed process of reducing the diameter of a "medical device." See Office Action page 2. This assertion is traversed.

Velarde discloses a die assembly 10 for forming a clip 24 from an open state to a

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closed state. See column 3, lines 4-7 and 31-33. Figures 2 and 3, which illustrate the clip 24 in the open and closed states, are shown below. The clip 24 is formed about *internal components* of an aerosol container which uses an elastic netting 18 to maintain pressure of the spray fluid. See column 2, lines 62-column 3, line 1 (emphasis added).



In Velarde, it is the clip 24 that is being operated upon by the die assembly 10 and reduced in size. Thus, in order for claim 1 to be unpatentable over Velarde, the clip 24 must comprise a "medical device" within the meaning to claim 1.

Applicant asserts that a person of ordinary skill in the art would not consider a clip that is used to secure elastic netting *inside* of an aerosol container, for the purposes of maintaining aerosol pressure, to be a "medical device" within the meaning of claim 1.

Further, the Federal Circuit has recently held that the specification is the single best guide in determining the meaning of a disputed claim term. The specification acts as a dictionary when it expressly defines terms used in the claims. In such cases, the inventor's lexicography governs. See *Phillips v. AWH Corporation*, 75 USPQ2d 1321 (Fed. Cir. 2005).

Applicant's specification distinguishes the claimed "medical device" from clips as taught by Velarde. The specification clearly states that, for the purposes of the disclosure, it is understood that the term "medical device" includes stents, stent-grafts, grafts and vena cava filters. See page 2, lines 14-15. The specification further states that the invention is related to the crimping of stents or other *expandable* medical devices. See page 2, lines 11-13.

A person of ordinary skill in the art would not consider the Velarde clip to be a stent, stent-graft, graft, vena cava filter or other expandable medical device. Therefore,

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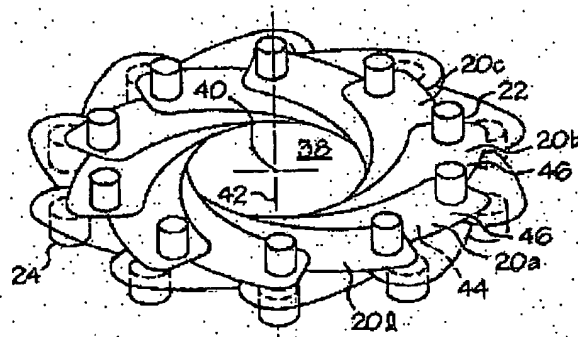
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Applicant asserts that Velarde does not disclose or suggest a method of reducing the diameter of a "medical device" as recited in claim 1, and claim 1 is patentable over Velarde. Claims 2-5 and 7-12 depend from claim 1 and are therefore patentable over Velarde for at least the reasons discussed with respect to claim 1. Accordingly, Applicant requests withdrawal of the rejection of claims 1 and 10-12, and withdrawal of the objections to claims 2-5 and 7-9.

Independent claim 13

Claim 13 requires a plurality of blades arranged to form an aperture, the blades including a first blade that overlaps a second blade in a direction parallel to the central longitudinal axis of the aperture. Claim 13 further requires that "a circumference of the aperture oriented orthogonal to the central longitudinal axis contacts the contacting surface of the first blade and the contacting surface of the second blade."

An example of the limitation with respect to a circumference of the aperture contacting the contacting surface of multiple overlapping blades is illustrated in the continuously overlapping blade structure shown in Figure 2, a portion of which is provided below. Note that a single circumference of the aperture 38 would contact the contacting surface of each blade.



Velarde discloses a die assembly 10 having a first die member 38, a second die member 40 and a punch 36. See column 3, lines 34-37 and Figure 1, a portion of which is provided below. Each die 38, 40 is pivotable about a respective pivot pin 54, 55, and the second die 40 overlaps the first die 38. See column 3, lines 59-66. The punch 36 is slidably mounted in a punch channel 64. See column 4, lines 11-13.

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Figures 4 and 5 are provided below. Figure 4 shows the overlap of the dies 38, 40, which include the parallel first and third planar portions. Figure 5 shows the skewed groove 70 of the punch 36.

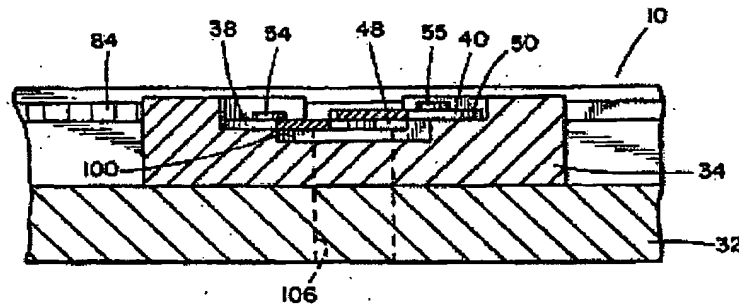


FIG. 4

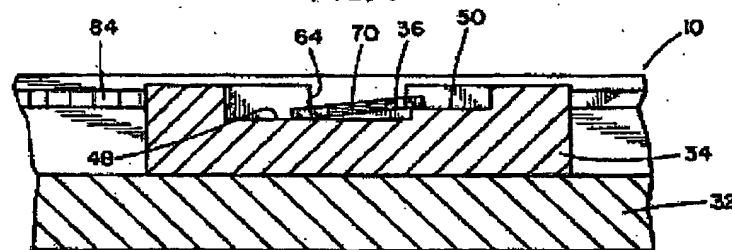


FIG. 5

In order to render claim 13 unpatentable under 35 USC § 102, Velarde must disclose or suggest first and second crimping members that overlap in a direction parallel to the central longitudinal axis of the aperture, whose contacting surfaces are both contacted by a single circumference of the aperture, wherein the circumference is oriented orthogonal to the central longitudinal axis of the aperture.

Of the elements of Velarde that operate upon the clip 24, namely the dies 38, 40 and the punch 36, only the dies 38, 40 could meet the "overlap" limitation of claim 13. While the skewed groove 70 of the punch 36 extends from the upper level of the second die 40 to the lower level of the first die 38, because the dies 38, 40 abut the punch 36 as best illustrated in Figure 8, neither die 38, 40 "overlaps" the punch 36 as required by claim 13.

A properly oriented circumference of the aperture according to claim 13 cannot be drawn that abuts the contacting surfaces of each die 38, 40. Because the dies 38, 40 are parallel to but offset from one another, as shown in Figure 4, a circumference of the aperture may contact the first die 38 or the second die 40, but not both.

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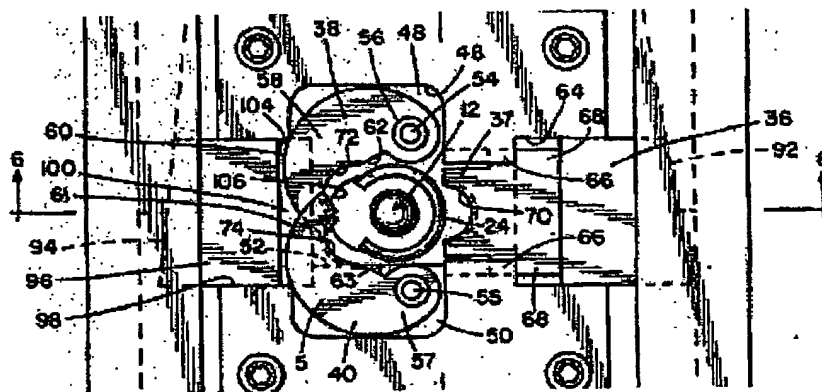
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Therefore, Applicant asserts that Velarde does not disclose or suggest an apparatus according to claim 13, and claim 13 is patentable over Velarde. Claims 14-18 depend from claim 13 and are therefore patentable over Velarde for at least the reasons discussed with respect to claim 13. Accordingly, Applicant requests withdrawal of the rejection of claims 13-17 and withdrawal of the objection to claim 18.

Independent claim 19

Claim 19 requires "a first body portion, a second body portion and a plurality of coupled movable blades arranged to form an aperture whose size may be varied, *each blade* pivotally connected to the first body portion and slidably engaged with the second body portion."

As discussed above in the section regarding Independent Claim 13, Velarde discloses a die assembly 10 having a first die member 38, a second die member 40 and a punch 36. See column 3, lines 34-37 and Figure 1, a portion of which is provided below.



In order for the Velarde device to form the claimed "aperture," the first die 38, the second die 40 and the punch 36 are all required. However, the punch 36 is slidably mounted in the punch channel 64 and does not pivot. Therefore, each blade is not "pivotally connected" as required by claim 19.

Further, the dies 38, 40 are operated by driving member 96 sliding within a driver channel 98, wherein an inner face 104 of the driving member 96 abuts curved surfaces 60, 61 of the dies 38, 40. See column 5, lines 23-43. The Office Action asserts that the dies 38, 40 are

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“slidably engaged” with the driving member 96, and thus the driving member 96 is analogous to the claimed “second body portion.” See Office Action page 2.

Claim 19 requires each blade to be “slidably engaged with the second body portion.” As shown in Figure 1, the Velarde punch 36 clearly is not slidably engaged with the driving member 96.

Therefore, Applicant asserts that Velarde does not disclose or suggest an apparatus according to claim 19, and claim 19 is patentable over Velarde. Claims 20-23 depend from claim 19 and are therefore patentable over Velarde for at least the reasons discussed with respect to claim 19. Accordingly, Applicant requests withdrawal of the rejection of claims 19-22 and withdrawal of the objection to claim 23.

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Conclusion

Based on at least the foregoing amendments and remarks, Applicant respectfully submits this Application is in condition for allowance. Favorable consideration and prompt allowance of claims 35 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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Date: May 30, 2006

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